

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-005 Scope and ((application)) purpose. This chapter generally sets requirements according to chapter 88.04 RCW to protect the safety and health of passengers and crew on board charter boats, and provides penalties for violations of these requirements. Specifically, this chapter:

(1) ~~((This chapter)) Applies to vessels for hire that carry seven or more passengers when operated in state waters ((within the jurisdiction of the state of Washington. These rules do not apply to vessels in the navigable waters of the United States subject to the jurisdiction of)) which are not regulated by the United States Coast Guard.~~

(2) ~~((Pursuant to chapter 88.04 RCW, the director of the department of labor and industries will administer this chapter.~~

(3) ~~All rules adopted by the United States Coast Guard pertaining to inland water passenger vessel service and navigation on inland waters will be applied to this chapter unless they conflict with specific provisions of this chapter or chapter 88.04 RCW.~~

(4) ~~Special consideration. In applying the provisions of this section, the director may allow departures from the specific requirements when special circumstances or arrangements warrant such departures.~~

(5) ~~The provisions of this chapter do)) Does not apply to:~~

(a) ~~((A)) Vessels that ((is a)) are charter boats but is being used by the documented or registered owner ((of the charter boat)) exclusively for ((the owner's)) their own noncommercial or personal pleasure purposes;~~

(b) ~~((A)) Vessels owned by ((a person)) people or corporate ((entity)) entities which ((is)) are donated and used by ((a person)) people or nonprofit organizations to transport passengers for charitable or noncommercial purposes, regardless of whether consideration is directly or indirectly paid to the owner;~~

(c) ~~((A)) Vessels that ((is)) are rented, leased, or hired by ((an)) operators to transport passengers for noncommercial or personal pleasure purposes;~~

(d) ~~((A)) Vessels used exclusively for, or incidental to, ((an)) educational purposes; or~~

(e) ~~((A)) Bare boat charter boats.~~

(3) Is intended to be consistent with, and prevails in the event of a conflict with, the rules adopted by the United States Coast Guard under 46 CFR Subchapters K and T, in effect at the time the vessel's keel was laid.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-115-015 Definitions (~~(applicable to all sections of this chapter)~~).

((Note: Meaning of words. Unless the context indicates otherwise, words used in this chapter will have the meaning given in this section.))

(1) **Approved** means approved by the assistant director~~((+))~~ or an authorized representative. However, if a provision of this chapter requires approval by an agency or organization other than the department, such as nationally recognized testing laboratories or the United States Coast Guard (~~((is required))~~), then approval by the specified authority will be accepted.

(2) **Assistant director** means the assistant director of the division of occupational safety and health (DOSH) within the department of labor and industries.

(3) **Authorized person** means a person approved or assigned by the employer to perform a specific type of duty or duties or be at a specific location or locations at the workplace.

(4) **Bare boat charter** means the unconditional lease, rental, or charter of a boat by the owner, or ~~((his or her))~~ owner's agent, to a person who by written agreement, or contract, assumes all responsibility and liability for the operation, navigation, and provisioning of the boat during the term of the agreement or contract, except when a captain or crew is required or provided by the owner or owner's agents to be hired by the charterer to operate the vessel.

(5) **Carrying passengers or cargo** means the transporting of any person or persons or cargo on a vessel for a fee or other consideration.

(6) **CFR** means Code of Federal Regulations.

(7) **Charter boat** means a vessel or barge operating on waters of the state of Washington which is:

(a) Not inspected or licensed by the United States Coast Guard and over which the United States Coast Guard does not exercise jurisdiction; and

~~((which is))~~ (b) Rented, leased, or chartered to carry seven or more (~~((than six))~~) persons, or cargo.

(8) **Commercial** means any activity from which the operator, or the person chartering, renting, or leasing a vessel derives a profit, and/or which qualifies as a legitimate business expense under the Internal Revenue Statutes.

(9) **Competent person** means someone who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt action to eliminate them.

(10) **Confined space** means a space that is all of the following:

~~((+))~~ (a) Large enough and arranged so (~~((configured))~~) that an employee (~~((can bodily))~~) could fully enter the space and

perform ~~((assigned))~~ work; and

~~((+2+))~~ (b) Has limited or restricted means for entry or exit ~~((+for,))~~. Examples of spaces with limited or restricted entry are tanks, vessels, silos, storage bins, hoppers, vaults, and pits ~~((are spaces that may have limited means of entry)))~~; and

~~((+3+ is))~~ (c) Not primarily designed for ~~((continuous employee))~~ human occupancy.

(11) Defect means any characteristic or condition that tends to weaken or reduce the strength of the tool, object, or structure of which it is a part.

(12) Department means the department of labor and industries.

~~((Director means the director of the department of labor and industries, or his/her designated representative.))~~ (13) Employee means:

(a) Someone who is employed in the business of an employer; and

(b) Every person in this state who is working for an employer under an independent contract for personal labor.

(14) Employer means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that operates a passenger vessel for hire in this state and employs one or more employees or contracts with one or more persons ~~((, the essence of which is the))~~ for personal labor ~~((of such persons))~~. Any person, partnership, or business entity that has no employees, and is covered by the Industrial Insurance Act ~~((shall be))~~ is considered both an employer and an employee.

(15) Enclosed space means any space, other than a confined space, which is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters, and machinery and boiler spaces.

(16) Equipment means a system, part, or component of a vessel as originally manufactured, or a system, part, or component manufactured or sold for replacement, repair, or improvement of a system, part, or component of a vessel; an accessory or equipment ~~((, or appurtenance to))~~ a vessel; or a marine safety article, accessory, or equipment, including radio equipment, intended for use by a person on board a vessel.

(17) Hazard means a condition, potential or inherent, that is likely to cause injury, death, or occupational disease.

(18) Hazardous substance means a substance that, because it is explosive, flammable, poisonous, corrosive, oxidizing, irritating, or otherwise harmful, is likely to cause death or injury, including all substances listed on the USCG hazardous materials list.

(19) Inspection means the examination of vessels by the assistant director or an authorized representative of the assistant director.

(20) Keel laid means the date a vessel's keel was laid or the vessel was at a similar stage of construction.

(21) Maritime safety specialist ((in P&TS)) means a technical and operations specialist in maritime issues located in the department ~~((of labor and industries' policy and technical services section))~~.

(22) Master means the individual having command of the vessel

and who is the holder of a valid license that authorizes the individual to serve as master of a small passenger vessel.

(23) **Passenger** means ((any person or persons, carried on board a vessel in consideration of the payment of a fee or other consideration.

Port means left hand side of a vessel as one faces the bow.

Starboard means right hand side of a vessel as one faces the bow.

Power driven vessel means any vessel propelled by machinery.

Qualified means one who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve problems relating to the subject matter, the work, or the project.

Safety and health standard means a standard that requires the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment)) a passenger who pays for carriage on a vessel, whether directly or indirectly to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

(24) **Should** means recommended.

((**Substantial** means constructed of such strength, of such material, and of such workmanship, that the object referred to will withstand all normal wear, shock, and usage.))

(25) **Standard safeguard** means a device intended to remove a hazard incidental to the machine, appliance, tool, or equipment to which the device is attached. Standard safeguards ((shall)) must be constructed of either metal, wood, other suitable material, or a combination ((of these)). The final determination of the sufficiency of any safeguard rests with the assistant director.

(26) **State waters** means all nonnavigable waters within the territorial limits of the state of Washington, and not subject to the jurisdiction of the United States Coast Guard.

(27) **Substantial** means an object is constructed of such strength, material, and workmanship that it will withstand all normal wear, shock, and usage.

(28) **Suitable** means that which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

(29) **Under way** means a vessel is not at anchor, ((or)) made fast to the shore, or aground.

(30) **USCG** means the United States Coast Guard.

(31) **United States Coast Guard Navigation** means rules International/Inland, Commandants Instruction ((M16672.29C)) M16672.2D as now adopted, or ((hereafter)) legally amended by the United States Coast Guard.

(32) **Vessel** means every description of motorized watercraft, other than a bare boat charter boat, seaplane, or sailboat, used or capable of being used to transport seven or more ((than six)) passengers, or cargo, on water for rent, lease, or hire.

(33) **Working day** means a calendar day, except Saturdays, Sundays, and legal holidays as ~~((set forth))~~ described in RCW 1.16.050 ~~((, as now or hereafter amended))~~. The time within which an act ~~((is to))~~ must be done ~~((under the provisions of this chapter shall be))~~ is computed by excluding the first working day and including the last working day.

~~((Worker, personnel, man, person, employee, and other terms of like meaning, unless the context indicates otherwise means an employee of an employer who is employed in the business of his/her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his/her personal labor for an employer whether by manual labor or otherwise.))~~

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-025 Vessel inspection and ~~((licensing))~~ certification. (1) The department must inspect all vessels subject to this chapter to ensure they are safe and seaworthy at least once each year.

(2) The department may also inspect a vessel:

(a) If requested to do so by the owner, operator, or master of the vessel ~~((, and))~~;

(b) After an explosion, fire, or any other accident involving the vessel ~~((,~~

~~((2) The department may inspect a vessel))~~;

(c) Upon receipt of a complaint from any person ~~((or,))~~;

(d) At the discretion of the department ~~((, at any other time))~~.

(3) The department will charge the owner of a vessel a fee for each certification or recertification inspection. ~~((This fee will be determined by the director. --))~~ See WAC 296-115-120 for fee schedule. ~~((+))~~

(4) No person will operate a passenger vessel if the vessel does not have a valid certificate of inspection issued by the department.

(5) After ~~((the department has inspected))~~ inspecting a vessel and determining it is ~~((satisfied the vessel is))~~ safe and seaworthy, the department will issue a certificate of inspection for that vessel. The certificate will be valid for one year after the date of inspection ~~((,~~) and contain:

~~((+5+))~~ (a) The certificate must set forth the date of the inspection ~~((,~~);

(b) The names of the vessel and the owner ~~((,~~);

(c) The number of lifeboats ~~((and))~~, if required;

(d) The number of life preservers required ~~((,~~);

(e) The number of passengers allowed~~((7))~~; and
(f) Any other information the department ~~((may))~~ requires by rule ~~((require))~~.

~~((6))~~~~((a))~~ Any time a vessel is found to be not safe or seaworthy, or not in compliance with the provisions of this chapter~~((7))~~;

(a) The department may refuse to issue a certificate of inspection until the deficiencies have been corrected and may cancel any certificate of inspection currently issued.

(b) The department must give the owner ~~((of the vessel))~~ a written statement ~~((of the reason(s)))~~ why the vessel was found to be unsafe, unseaworthy, or not in compliance with the provisions of this chapter, including a specific reference to the statute or rule ~~((with which the vessel did not comply))~~.

~~((7))~~ ~~((An))~~ Department inspectors ~~((of the department))~~ may, upon ~~((the presentation of his or her))~~ presenting their credentials to the owner, master, operator, or agent in charge of a vessel, board the vessel without delay to make an inspection.

~~((The))~~ (a) Inspectors must inform the owner, master, operator, or agent in charge that ~~((his or her))~~ their intent is to inspect the vessel.

~~((+8))~~ (b) During the inspection, ~~((the))~~ inspectors must have access to all areas of the vessel. ~~((The))~~ Inspectors may question privately the owner, master, operator, or agent in charge of the vessel, or any crew member of or passenger on the vessel.

~~((+9))~~ (c) If any person refuses to allow ~~((an))~~ inspectors to board a vessel for an inspection, or refuses to allow access to any areas of the vessel, the department may request a warrant from the superior court for the county in which the vessel is located. The court will grant the warrant if:

~~((+a))~~ If) • There is evidence that the vessel has sustained a fire, explosion, unintentional grounding, or has been involved in any other accident;

~~((+b))~~ If) • There is evidence that the vessel is not safe or seaworthy; or

~~((+c))~~ Upon a showing) • The department shows that the inspection furthers a general administrative plan for enforcing the safety requirements of chapter 88.04 RCW, the Charter Boat Safety Act.

~~((+10))~~ (8) The owner or master of a vessel must post the certificate of inspection behind glass or other suitable transparent material in a conspicuous area of the vessel.

~~((+11))~~ No person will operate a passenger vessel if the vessel does not have a valid certificate of inspection.)

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-030 Master's examination and licensing. (1) The registered owner of passenger vessels or barges for hire is responsible to obtain an operator's license from the United States Coast Guard or the department for the master or operator of each vessel. A physical examination will be required.

~~(2) ((The department will penalize any person who acts as a master or operator on a vessel without having first received a United States Coast Guard or department license, or without having a valid license in his or her possession, or upon a vessel or class of vessels not specified in the license.~~

~~(3))~~ The department may recommend suspension or revocation of a license to the United States Coast Guard for intemperance, incompetence, or a negligent, reckless, or willful disregard for duty.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-115-035 Specific inspection requirements. (1) ~~((Drydocking or hauling out.))~~ Each passenger vessel subject to the provisions in this section must be drydocked or hauled out at intervals not to exceed sixty months and the underwater hull and appendages, propellers, shafting, stern bearings, rudders, through-hull fittings, sea valves and strainers must be examined to determine that these items are in satisfactory condition.

(2) At the annual inspection the inspector must:

(a) View the vessel afloat and conduct the following tests and inspections of the hull:

~~((a))~~ (i) Examine the hull exterior and interior, bulkheads, and weather deck.

~~((b))~~ (ii) Examine and test by operation all watertight closures in the hull, decks, and bulkheads.

~~((c))~~ (iii) Inspect all railings and bulwarks and their attachment to the hull.

~~((d))~~ (iv) Inspect weathertight closures above the weather deck and drainage or water from exposed decks and superstructure.

~~((3) At the annual inspection the inspector will))~~ (b) Examine and test the following items:

~~((a))~~ (i) Main propulsion machinery.

~~((b))~~ (ii) Engine starting system.

~~((c))~~ (iii) Engine control mechanisms.

~~((d))~~ (iv) Auxiliary machinery.

~~((e))~~ (v) Fuel systems.

~~((f))~~ (vi) Sea valves and bulkhead closure valves.

~~((g))~~ (vii) Bilge and drainage systems.

~~((h))~~ (viii) Electrical system, including circuit protection.

~~((4) Lifesaving and fire extinguishing equipment. At each annual inspection the inspector must))~~ (c) Inspect the life saving and fire extinguishing equipment for serviceability.

~~((5) Miscellaneous systems and equipment. At each annual inspection the marine dock inspector must))~~ (d) Inspect and test the vessel's steering apparatus, ground tackle, navigation lights, sanitary facilities, pressure vessels, and any other equipment aboard the vessel for serviceability and safety.

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-040 Vessel construction and arrangement. (1) Application.

(a) ~~((The))~~ These requirements ~~((of this section))~~ apply to all vessels contracted for construction on or after June 7, 1979.

(b) Vessels constructed before the effective date of this chapter must be brought into substantial compliance with the requirements of this section. Where ~~((deviation exists and))~~ strict compliance is impractical, the assistant director may grant a temporary variance to allow a modification or a permanent variance if the intent of ~~((subsection (1)(c) of this section))~~ these requirements is met.

(c) The intent of ~~((the regulations in this part))~~ these requirements is to provide for a sound, seaworthy vessel, reasonably fit for the service it is intended to provide, and to ensure that the materials, scantlings, fastenings, and workmanship meet this intent. Primary consideration must be given to the provision of a seaworthy hull, protection against fire, means of escape in case of casualty, guards and rails in hazardous places, ventilation of closed spaces, and necessary facilities for passengers and crew.

(2) Hull structure.

(a) In general, ~~((compliance))~~ complying with the standards of the United States Coast Guard rules for small passenger vessels or with the standards of a recognized classification society ~~((will be))~~ is considered satisfactory evidence of the structural adequacy of a vessel.

(b) Special consideration will be given by the assistant director to materials or structural requirements not ~~((contemplated))~~ specified by the standards of a recognized classification society.

(3) Watertight integrity and subdivision.

(a) All vessels carrying more than forty-nine passengers must have a collision bulkhead and watertight bulkheads (or sufficient air tankage or other internal flotation) so the vessel will remain

afloat (with positive stability) with any one main compartment flooded.

(b) All watertight bulkheads required by this part must be of substantial construction so ~~((as to be able to))~~ they remain watertight with water to the top of the bulkhead.

(c) Watertight bulkheads must extend intact to the bulkhead deck. Penetrations must be kept to a minimum and must be watertight.

(d) The weather deck on a flush deck vessel must be watertight and must not obstruct overboard drainage.

(e) Cockpits must be watertight except that companionways may be fitted if they are provided with watertight coamings and weathertight doors. Also, ventilation openings may be provided if they are situated as high in the cockpit as possible and the opening height does not exceed two inches.

(f) Cockpits must be self-bailing. The scuppers installed for this purpose must be located so ~~((as to be))~~ they are effective considering probable list and trim.

(g) Well decks must be watertight. Freeing ports may be installed if the provisions of applicable United States Coast Guard standards are followed.

(h) ~~((On vessels operating on protected waters,))~~ Weather deck hatches may be weathertight. All hatches must be provided with covers capable of being secured.

(i) The number of openings in the vessel's sides below the weather deck must be kept to a minimum.

(j) Any openings in a vessel's sides, such as portlights, must comply with applicable United States Coast Guard standards.

(4) Stability.

(a) All charter vessels ~~((subject to the provisions of this section))~~ must have a stability test, ~~((except that))~~ unless the assistant director ~~((may dispense with the requirements for a test if he deems))~~ determines that a test is not required ~~((, on the basis of))~~ because sufficient evidence is provided by the owner that the vessel's stability is satisfactory for the service for which it is intended.

(b) A letter stating that the vessel has met ~~((the))~~ these stability requirements ~~((of this part))~~ must be posted in the pilothouse of each vessel.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-115-050 General requirements. (1) ~~((Application.~~

~~(a) The following rules are applicable to all vessels operated within the scope of this chapter.~~

~~(b))~~ Where an existing charter vessel does not ~~((comply with))~~ meet a particular requirement of this section, the assistant

director may grant:

(a) A temporary variance to allow time for modifications to be made.

~~((c) Where an existing vessel does not comply with a specific requirement contained herein but))~~ (b) A permanent variance if the degree of protection afforded is judged to be adequate for the service in which the vessel is used~~((, the director may grant a permanent variance))~~.

(2) Lifesaving equipment~~((, Where equipment))~~ required by this section ~~((is required to be of an approved type, the equipment is required to))~~ must be approved by the USCG.

(3) The following lifesaving equipment is required~~((:))~~:

(a) All vessels carrying passengers must carry life floats or buoyant apparatus for all persons on board.

~~((b))~~ (i) All life floats or buoyant apparatus must be international orange in color.

~~((c) In the case of))~~ (ii) Vessels operating not more than one mile from land~~((, the director may permit operation with reduced amounts of))~~ are not required to carry life floats or buoyant apparatus~~((, when, in his opinion, it is safe to do so))~~.

~~((d))~~ (iii) Lifeboats, life rafts, dinghies, dories, skiffs, or similar type craft may be substituted for the required life floats or buoyant apparatus if the substitution is approved by the assistant director.

~~((e))~~ (iv) Life floats, buoyant apparatus, or any authorized substitute must be U.S. Coast Guard approved and have the following equipment:

~~((i) A life line around the sides at least equivalent to 3/8-inch manila, festooned in bights of at least three feet, with a seine float in the center of each bight.~~

~~((ii))~~ ● Two paddles or oars not less than four feet in length.

~~((iii))~~ ● A painter of at least one-half inch diameter and thirty feet in length ~~((and of at least two-inch manila or the equivalent))~~.

~~((f))~~ (b) All vessels must have ~~((an))~~ a USCG-approved adult ~~((type))~~ life preserver for ~~((each person carried))~~ the number of people the vessel is certified to carry, with at least ten percent additional of a type suitable for children or greater number to provide a life jacket for each child-sized person on board.

~~((g))~~ (i) Life preservers must be stowed in readily accessible places in the upper part of the vessel~~((:))~~; and

(ii) Each life preserver ~~((shall))~~ must be marked with the vessel's name.

~~((h))~~ (c) All vessels must carry in a readily accessible location at least one ring life ~~((ring))~~ buoy of an approved type with sixty feet of buoyant line attached. The ring life buoy must:

(i) (The life ring buoy must be carried in a readily accessible location and must be capable of being) Be ready to cast loose at any time; and

(ii) Have a floating water light, unless operation is limited to daytime.

(4) Fire protection general.

(a) The general construction of a vessel must minimize fire hazards.

(b) Internal combustion engine exhausts, boiler and galley uptakes, and similar sources of ignition must be kept clear of and suitably insulated from woodwork or other combustible material.

(c) Lamp, paint, and oil lockers and similar storage areas for flammable or combustible liquids must be constructed of metal or lined with metal.

(5) Fire protection equipment. Equipment required (~~((by this section, when required))~~) to be of an approved type(~~((7))~~) must be (~~((of a type))~~) approved by the USCG or other agency acceptable to the director.

~~((6))~~ (a) Fire pumps.

~~((a))~~ (i) All vessels carrying more than forty-nine passengers must carry an approved power fire pump(~~((7 and))~~) capable of reaching any part of the vessel.

(ii) All other vessels must carry an approved hand fire pump. These pumps must be provided with a suitable suction and discharge hose(~~((These pumps))~~), and may also serve as bilge pumps.

~~(b) ((Vessels required to have a power fire pump must also have a fire main system, including fire main, hydrants, hose, and nozzles. The fire hose may be a good commercial grade garden hose of not less than 5/8 inch size.~~

~~(7))~~ Fixed fire extinguishing system.

~~((a All))~~ (i) The following vessels (~~((powered by internal combustion engines using gasoline or other fuel having a flashpoint of 110°F or lower,))~~) must have a fixed fire extinguishing system to protect the machinery and fuel tank spaces(~~((7))~~):

~~((b))~~ • Those powered by internal combustion engines using gasoline or other fuel having a flashpoint of 110°F or lower; and

• Those with hulls constructed of fiber-reinforced plastic (FRP) or wood.

(ii) This system must be an approved type (~~((using carbon dioxide))~~) and have a capacity sufficient to protect the space.

~~((c))~~ (iii) Controls for the fixed system must be installed in an accessible location outside the space protected.

~~((8))~~ (iv) A device must be provided to automatically shut down power ventilation serving the protected space and engines that draw intake air from the protected space prior to release of the extinguishing agent into the space.

(c) Fire axe. All vessels must have one fire axe located in or near the pilothouse.

~~((9))~~ (d) Portable fire extinguishers.

~~((a))~~ (i) All vessels must have a minimum number of portable fire extinguishers of an approved size and type. The number required will be determined by (~~((the director))~~) Table 1, Portable Fire Extinguishers.

~~((b))~~ (ii) Portable fire extinguishers must be inspected at least once a month. Extinguishers found defective must be serviced or replaced.

~~((c))~~ (iii) Portable fire extinguishers must be serviced at

least once a year. The required service must consist of discharging and recharging foam and dry chemical extinguishers and weighing and inspecting carbon dioxide extinguishers.

~~((d))~~ (iv) Portable fire extinguishers must be hydrostatically tested at intervals not to exceed those specified in WAC 296-800-300 in the safety and health core rules.

~~((e))~~ (v) Portable fire extinguishers of the vaporizing liquid type such as carbon tetrachloride and other toxic vaporizing liquids are prohibited and must not be carried on any vessel.

~~((f))~~ (vi) Portable fire extinguishers must be mounted in brackets or hangers near the space protected. The location must be marked in a manner satisfactory to the assistant director.

Table 1
Portable Fire Extinguishers

<u>Space Protected</u>	<u>Minimum # Required</u>	<u>Type Extinguisher Permitted</u>		
		<u>CG Class</u>	<u>Medium</u>	<u>Minimum Size</u>
<u>Operating station</u>	<u>1</u>	<u>B-I, C-I</u>	<u>Halon</u> <u>CO₂</u> <u>Dry chemical</u>	<u>2.5 lb.</u> <u>4 lb.</u> <u>2 lb.</u>
<u>Machinery space</u>	<u>1</u> <u>Located just outside</u> <u>exit</u>	<u>B-II, C-II</u>	<u>CO₂</u> <u>Dry chemical</u>	<u>15 lb.</u> <u>10 lb.</u>
<u>Open vehicle deck</u>	<u>1 for every 10</u> <u>vehicles</u>	<u>B-II</u>	<u>Foam</u> <u>Halon</u> <u>CO₂</u> <u>Dry chemical</u>	<u>2.5 gal.</u> <u>10 lb.</u> <u>15 lb.</u> <u>10 lb.</u>
<u>Accommodation space</u>	<u>1 for each 2,500 sq.</u> <u>ft. or fraction</u> <u>thereof</u>	<u>A-II</u>	<u>Foam</u> <u>Dry chemical</u>	<u>2.5 gal.</u> <u>10 lb.</u>
<u>Galley, pantry, concession stand</u>	<u>1</u>	<u>A-II, B-II</u>	<u>Foam</u> <u>Dry chemical</u>	<u>2.5 gal.</u> <u>10 lb.</u>

~~((10))~~ (6) Means of escape.

(a) ~~((Except as otherwise provided in this section,))~~ All vessels must ~~((be provided with not less than))~~ have at least two avenues of escape from all general areas accessible to the passengers or where the crew may be quartered or normally employed. The avenues must be located so that if one is not available the other may be. At least one of the avenues should be independent of watertight doors.

(b) One vertical means of escape is acceptable where the length of the compartment is less than twelve feet ~~((, one vertical means of escape will be acceptable))~~ under the following conditions:

(i) There is no source of fire in the space, such as a galley stove or heater and the vertical escape is remote from the engine and fuel tank space; or

(ii) The arrangement is such that the installation of two means of escape does not materially improve the safety of the vessel or those aboard.

~~((11))~~ (7) Ventilation.

(a) All enclosed spaces within the vessel must be properly vented or ventilated. Where such openings would endanger the vessel under adverse weather conditions, means must be provided to close them.

(b) All crew and passenger space must be adequately ventilated in a manner suitable to the purpose of the space.

~~((12))~~ (8) Crew and passenger accommodations.

(a) Vessels with crew members living aboard must have suitable accommodations.

(b) Vessels carrying passengers must have fixed seating for the maximum number of passengers permitted ~~((to be carried.~~

~~((c) Fixed seating must be installed with spacing to provide for ready escape in case of fire or other casualty.~~

~~((d) Fixed seating must be installed as follows, except that special consideration may be given by the director if escape over the side can be readily accomplished through windows or other openings in the way of the seats)), installed as follows:~~

~~((i) Spacing that provides for ready escape in case of fire or other casualty.~~

~~((ii) Aisles not over fifteen feet long must be not less than twenty-four inches wide.~~

~~((iii))~~ ((iii) Aisles over fifteen feet long must be not less than thirty inches wide.

~~((iii))~~ ((iv) Where seats are in rows the distance from seat front to seat front must be not less than thirty inches.

~~((e))~~ ((v) The assistant director may grant special exception to fixed seating spacing requirements if escape over the side can be readily accomplished through windows or other openings in the way of the seats.

((c) Portable or temporary seating may be installed but must be arranged ((in general)) as provided for fixed seating.

~~((13))~~ (9) Toilet facilities and drinking water.

(a) Vessels must be provided with toilets and wash basins as specified in WAC 296-800-230 ~~((, except that in the case of)) unless vessels are used exclusively on short runs of approximately thirty minutes or less ((, the director may approve other arrangements)).~~

(b) All toilets and wash basins must be fitted with adequate plumbing. Facilities for men and women must be in separate compartments, except in the case of vessels carrying forty-nine passengers and less, the assistant director may approve other arrangements.

(c) Potable drinking water must be provided for all passengers and crew ~~((The provisions of)) according to WAC ((296-800-230 apply)) 296-800-23005.~~

(d) Covered trash containers must be provided in passenger areas.

~~((14))~~ (10) Rails and guards.

(a) ~~((Except as otherwise provided in this section,))~~ Rails or equivalent protection must be installed near the periphery of all weather decks accessible to passengers and crews. Where space limitations make deck rails impractical for areas designed for crew

only, such as at narrow catwalks in the way of deckhouse sides, hand grabs may be substituted.

(b) Rails must consist of evenly spaced courses. The spacing must not be greater than ~~((twelve))~~ four inches except as provided in WAC 296-115-050 ~~((+14)(f))~~ (10)(d). ~~((The))~~ Lower rail courses may not be required ~~((where))~~ if all or part of the space below the upper rail course is fitted with a bulwark, chain link fencing, wire mesh or the equivalent.

(c) On passenger decks of vessels engaged in ferry or excursion type operation, rails must be at least forty-two inches high. The top rail must be pipe, wire, chain, or wood and must withstand at least two hundred pounds of side loading. The space below the top rail must be fitted with bulwarks, chain link fencing, wire mesh, or the equivalent.

(d) On vessels engaged in other than passenger service, the rails must be not less than thirty-six inches high ~~((, except that))~~. Where vessels are used in special service, the assistant director may approve other arrangements, but in no case less than thirty inches high.

(e) Suitable storm rails or hand grabs must be installed where necessary in all passageways, at deckhouse sides, and at ladders and hatches where passengers or crew might have normal access.

(f) Suitable covers, guards, or rails must be installed in the way of all exposed and hazardous places such as gears or machinery. (See chapter 296-806 WAC, Machine safety for detailed requirements.)

~~((+15))~~ (11) Machinery installation.

(a) Propulsion machinery.

(i) Propulsion machinery must be suitable in type and design for the propulsion requirements of the hull of the vessel in which it is installed. Installations meeting the requirements of the USCG or ~~((other))~~ USCG-recognized classification society ~~((will be))~~ are considered acceptable to the assistant director.

(ii) Installations using gasoline or diesel as a fuel must meet the requirements of applicable USCG standards.

~~((+iii)) Installations using diesel fuel must meet the requirements of applicable USCG standards.))~~

(b) Auxiliary machinery and bilge systems.

(i) All vessels must be provided with a suitable bilge pump, piping, and valves for removing water from the vessel.

(ii) Vessels carrying more ~~((that))~~ than forty-nine passengers must have a power operated bilge pump. The source of power must be independent of the propulsion machinery. Other vessels must have a hand operated bilge pump, but may have a power operated pump if it is operated by an independent power source.

(c) Steering apparatus and miscellaneous systems.

(i) All vessels must be provided with a suitable steering apparatus.

(ii) All vessels must be provided with navigation lights and shapes, whistles, fog horns, and fog bells as required by the USCG rules of navigation.

(iii) All vessels must be equipped with a suitable number of

portable battery lights for emergency purposes. There should be at least two, one located at the operating station and the other at the access to the propulsion machinery.

(d) Electrical installations. The electrical installations of all vessels must be at least equal to applicable USCG standards, or as approved by the assistant director.

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-060 Operations. (1) ~~((This section applies to all passenger vessel operations within the scope of this chapter. (2)))~~ No person will rent, lease, or hire out a charter boat, ~~((nor))~~ carry, advertise for ~~((the))~~ carrying ~~((of, nor))~~, or arrange for ~~((the))~~ carrying ~~((of))~~, more than six passengers on a vessel for a fee or other consideration on ~~((the))~~ state waters ~~((of the state))~~ unless the vessel ~~((is in compliance with))~~ meets the ((provisions)) requirements of this chapter.

~~((+3))~~ (2) Notice of casualty.

(a) The owner or person in charge of any vessel involved in a marine accident or casualty involving any of the following must report the incident immediately to the department~~((+))~~:

(i) Damage to property in excess of one thousand five hundred dollars.

(ii) Major damage affecting the seaworthiness or safety of the vessel.

(iii) Loss of life or an injury to a person that ~~((incapacitates the person for more than seventy-two hours))~~ requires medical treatment beyond first aid.

(iv) Fire on board the vessel.

(b) The report must be in writing to the assistant director ~~((and))~~. Upon receipt of the report the assistant director may request an investigation by a marine dock inspector.

~~((+4))~~ (3) Miscellaneous ~~((operating requirements))~~ operations.

(a) In the case of collision, accident, or other casualty involving a vessel the operator, must~~((+))~~:

(i) So far as ((he can do so)) possible without serious danger to ~~((his own))~~ the vessel or persons aboard, render any necessary assistance to other persons affected by the collision, accident, or casualty to save them from danger. ~~((He must also give his))~~

(ii) Provide the name and address of the vessel owner and the name of ~~((his))~~ the vessel to any person injured and to the owner of any property damaged.

(b) The person in charge of the vessel must see that the provisions of the certificate of inspection are strictly adhered to. This will not ~~((be construed as limiting))~~ limit the person in charge from taking any action in an emergency ~~((that he deems))~~

judged necessary to help vessels in distress or to prevent loss of life.

(c) ~~((Persons operating))~~ The operator of a vessel ~~((s))~~ must comply with the provisions of the USCG ~~((rules of the road for inland waters))~~ Navigation Rules International/Inland, Commandants Instruction M16672.2D.

(d) The operator of a vessel must test the vessel's steering gear, signaling whistle, controls, and communication system before getting under way for the day's operation.

(e) Vessels using fuel ~~((having))~~ with a flashpoint of 110°F or lower must not take on fuel when passengers are on board.

(f) All vessels must enforce "no smoking" provisions when fueling. Locations on the vessel where flammable or combustible liquids are stored must be posted "no smoking."

(g) All vessels must prepare and post emergency check-off lists in a conspicuous place accessible to crew and passengers, covering the following:

(i) Man overboard.

(ii) Fire.

(h) The persons in charge must conduct emergency drills to ensure that the crew is familiar with their duties in an emergency and must document the drills.

(i) ~~((The carriage of))~~ Carrying hazardous substances is prohibited on vessels. However, the assistant director may authorize a vessel to carry specific types and quantities of hazardous substances if ~~((he deems it necessary))~~ the assistant director approves the type, quantity, and manner in which it is carried.

(j) All areas accessible to passengers or crew must be kept in a clean and sanitary condition. All walking surfaces must be free of slipping or tripping hazards and in good repair.

~~((5) First aid training. There must be present or available on))~~ (4) First aid.

(a) All passenger vessels at all times ~~((7))~~ must have a person holding a valid certificate of first-aid/CPR training.

~~((6) Valid certification must be achieved by passing a course of first aid instruction and participation in practical application of the following subject matter.~~

~~Bleeding control and bandaging.~~

~~Practical methods of artificial respiration, including mouth to mouth and mouth to nose resuscitation.~~

~~Closed chest heart massage.~~

~~Poisons.~~

~~Shock, unconsciousness, stroke.~~

~~Burns, scalds.~~

~~Sunstroke, heat exhaustion.~~

~~Frostbite, freezing, hypothermia.~~

~~Strains, sprains, hernias.~~

~~Fractures, dislocations.~~

~~Proper transportation of the injured.~~

~~Bites, stings.~~

~~Subjects covering specific health hazards likely to be~~

~~encountered by coworkers of first-aid students enrolled in the course.~~

~~(7) First-aid equipment.))~~ (b) A first-aid kit or first-aid room must be provided on all ~~((passenger))~~ vessels. The size and quantity of first-aid supplies or equipment required must be determined by the number of persons normally dependent upon each kit or equipment. The first-aid kit or supplies must be in a weatherproof container with individually sealed packages for each type of item. The location of the first-aid station or kit ~~((location))~~ must be posted or marked "first aid" on the container.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-115-070 Rules of navigation. The operation and navigation of all charter vessels ~~((subject to this chapter))~~ must be in strict accordance with the United States Coast Guard Navigation Rules International/Inland, Commandants Instruction ~~((M16672.29C))~~ M16672.2D as now adopted, or ~~((hereafter))~~ legally amended by the United States Coast Guard.

(1) A copy of the United States Coast Guard Navigation Rules International/Inland, Commandants Instruction ~~((M16672.29C))~~ M16672.2D, must be on board all charter vessels ~~((subject to this chapter))~~ at all times when the vessel is under way.

(2) At least annually, where applicable, the operator of each vessel must "swing the ~~((vessel))~~ compass" to determine the actual compass readings in relation to true compass headings, and must maintain a record on board the vessel.

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-100 ~~((Violations and setting of))~~ Penalties for certificate of inspection and operator's license violations. (1) ~~((Violations of the mandatory provisions of this chapter will be subject to penalty. The amount of the penalty will be assessed in accordance with the guidelines and fixed schedules contained herein.))~~ For owners of vessels, any violation of the certification and inspection provisions of this chapter is punishable according to the penalties provided under the Washington Industrial Safety and Health Act, chapter 49.17 RCW.

(2) The following fixed schedule penalties((-)) apply:

(a) ~~((Failure))~~ For failing to display certificate of inspection as required~~(((-))~~ in WAC 296-115-025(8), fifty dollars to

owner of the vessel.

(b) (~~Operation of vessel in passenger service without a valid certificate of inspection: To owner of vessel, two hundred dollars per violation; to person~~) For a nonowner who operates vessel without a valid certificate of inspection, one hundred dollars per violation.

(c) (~~Operation of~~) For operating a vessel in passenger service (~~while not in possession of~~) without a valid USCG/state of Washington operator's license(~~(-)~~), one hundred dollars per violation to the owner of the vessel.

NEW SECTION

WAC 296-115-110 Appeal of decisions. (1) Within fifteen working days after receipt of the decision, a person may request a hearing with the assistant director regarding denial of a certificate of inspection or license, or a decision on the maximum passengers, crew, or total capacity of a charter boat.

(a) At the hearing the department must give the opportunity to produce witnesses and give testimony.

(b) The hearing will be held at the department's headquarters office or at another location designated by the assistant director and presided over by an authorized representative of the assistant director.

(c) Following the informal hearing the department will issue a final decision.

(d) A final decision may be appealed to the superior court for the state of Washington in either the county in which the certificateholder resides or in Thurston County within thirty days after the suspension or revocation order is entered.

(e) The action being appealed will remain in effect until the applicant presents proof that the specified requirements are met, or until the appeal is otherwise resolved.

(2) For all other citations, follow the appeal process in chapter 49.17 RCW.

AMENDATORY SECTION (Amending Order 89-10, filed 10/10/89, effective 11/24/89)

WAC 296-115-120 Annual fee schedule. (1) The annual (~~license~~) certification fee for passenger vessels or barges is (~~(\$250.00)~~) two hundred fifty dollars plus (~~(\$2.00)~~) two dollars per ton for each vessel.

(2) The fee for an operator's license for passenger vessels or

barges is ((~~\$50.00~~)) fifty dollars for the first year; this covers application and test costs. The renewal fee is ((~~\$25.00~~)) twenty-five dollars annually.

(3) Additional inspection service when required is at the rate of ((~~\$25.00~~)) twenty-five dollars per hour, plus travel and per diem.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-115-001

Foreword.

WAC 296-115-010

Appeal of decisions.